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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,993	12/17/2003	Seiji Sawatani	P21-163401M/YS	6440

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,993

Applicant(s)

SAWATANI ET AL.

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 4-6 is/are rejected.
7) ☒ Claim(s) 2,3 and 7-19 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,865,205 to Palmquist in view of U.S. Pat. No. 6,120,069 to Taranto.

Palmquist '205 teaches Applicant's claim limitations including : a "swing member" - 12, a "pair of lock arms" - 11a, 11a, each includes the "hook portion at a tip end thereof" - portions 13 are bent back over to overhang inherently forming a 'hook' where it's noted that Applicant's disclosed "hook" does not hook around any keeper or other structure, a "subassembly member for holding the pair of lock arms at said retracted position without user intervention" - reference explicitly discloses jamb subassembly has a rounded portion for causing the lock arms to be retracted as the door is shut. The reference also illustrates a flat portion between the rounded portion and the keeper. One of ordinary skill in the art would recognize that structure is inherently capable of performing the function should the door be left in a position wherein the lock arms are in contact therewith. Otherwise, the claim does not define any structure of the claimed "subassembly member" that might be relied upon to patentably distinguish from the

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structure of the prior art that inherently performs broadly-recited function. While Applicant is free to define the invention using any language that doesn't otherwise render the scope of the claim indefinite; inasmuch as the scope of a product claim is defined by its structure, functional recitations describing how an element might be used often result in broad limitations. See MPEP 2114. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The law of anticipation requires that a distinction be made between the invention described or taught and the invention claimed. It does not require that the reference "teach" what the subject patent teaches. Assuming that a reference is properly "prior art," it is only necessary that the claims under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789. Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

Palmquist '205 also teaches : "cam grooves" - 35, "cam pins" - 30. Palmquist '205 discloses the claimed invention except for its being "supported by a lid of a glove box". Taranto '069 teaches that it is well known to provide generally similar latches on glove boxes although that latch does not have specific structural features of the presently-claimed latch. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the glove box of Taranto '069 with a latch as taught

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by Palmquist '205 to compensate for tolerances and remain tightly closed as stated by Palmquist '205. One of ordinary skill in the art would have more than a reasonable expectation of success since such use would not otherwise affect the structure of the latch.

Allowable Subject Matter

3. Claims 2, 3, and 7-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed along with the amendment of the claims has been fully considered but is not entirely persuasive. While the reference does not disclose structure that is the same as that *disclosed* by Applicant, the claims do not specifically require same. Limitation of "subassembly" must be interpreted broadly since it does not define any particular structure. Inasmuch as the prior art teaches structure that is inherently capable of performing the recited function (without user intervention), the claim has not patentably distinguished from the prior art. Should Prosecution be Continued, it is suggested that more particular structural limitations corresponding in scope with what has been disclosed and for which protection is desired, be added to the claims. Otherwise it's noted that structure of the invention is pointed out in dependent claims indicated in Allowable Subject Matter portion of this Office Action whereby in

order to expedite Prosecution as much as possible, it is suggested that dependent claims be amended as suggested above.

Conclusion

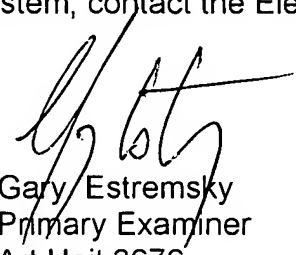
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Estremsky
Primary Examiner
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